

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Eugene T. & Anna M. Weir,
Petitioner-Appellants,

v.

Palo Alto Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-74-0214
Parcel No. 210506080000

On February 10, 2010, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellants, Eugene T. and Anna M. Weir, requested their appeal be considered without hearing. They are self-represented and did not submit additional evidence in support of their petition supplementing the Board of Review record. The Board of Review designated County Attorney Peter C. Hart as its legal representative. The Board of Review submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

Eugene T. and Anna M. Weir, owners of property located at 3343 350th Avenue, Ruthven, Iowa, appeal from the Palo Alto County Board of Review decision reassessing their property. According to the revised property record card, the subject property consists of a one-and-a-half-story, frame dwelling having 1400 square feet of living area with a 392 square foot one-story addition, no basement, and an attached 672 square foot garage. The improvements were built in 2000, are in normal condition and have a grade classification of 4+10. The dwelling is situated in an area known as Lost Island Lake on a 0.187 acre lakefront parcel. The real estate was classified as residential on the

initial assessment of January 1, 2009, and valued at \$344,620, representing \$168,300 in land value and \$176,320 in improvement value.

The Weirs protested to the Board of Review on the grounds: (1) that the assessment was not equitable as compared with assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a); and (2) that there was an error in the assessment under section 441.37(1)(d). They claimed that \$258,000; allocated \$130,000 to land and \$128,000 in the dwelling was the actual value and a fair assessment of the property. The Board of Review denied the protest.

The Weirs then appealed to this Board. They claimed that the assessment was not equitable compared with assessments of other like property and that there was an error in the assessment. Specifically, they claim that the house and land dimensions were incorrect and sought a refund for past years' taxes. The Weirs submitted evidence to the Board of Review included in the certified record showing that the total square foot of living area in their home was 1792 square feet, not the 2772 square feet listed on the assessor's records at that time. The Weirs also reported that they have 81.5 foot of shore line, 126 foot of road footage, 73.04 feet on south side and 85.27 feet on the west side of the lot, which would total 8,162.42 square feet. The property record card had initially indicated a 81.5 foot x 126 foot lot with 10,269 total square feet. The revised property record card received by this Board corrected the listing measurement errors of both the land and dwelling. We are uncertain why neither the land nor dwelling values were changed by the Board of Review, when the total square footage of both was reduced by these corrections.

The Board of Review submitted an exhibit showing all dwellings built from 2000 to 2007 that are located similarly to the subject property around Lost Island Lake. According to the exhibit, dwelling values ranged from \$63.61 per square foot to \$131.35 per square foot of living area with a median value of \$80.81 per square foot. The Weir dwelling is assessed at \$63.61 per square foot of living area which is the lowest value of the range on this exhibit. However, this figure was based on

2772 total square feet of living area. Using the revised 1792 total square feet of living area, the per-square-foot assessed value is \$98.39 which is above the \$82.34 revised median and at the higher end of the range. Although this exhibit suggests the Weir property is not inequitably assessed, since property record cards for these properties were not submitted; it is difficult to determine if the other properties are of comparable style, quality, and amenities. No data concerning the land valuation was submitted.

Reviewing all the evidence, we find that it is insufficient to prove the Weirs' January 1, 2009, assessment is inequitable and the measurement errors have been corrected.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.*

If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2).

The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

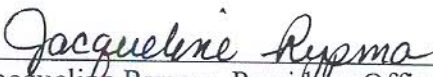
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). It is our conclusion the Weirs failed to present persuasive evidence sufficient to support the claim that the assessment was not equitable as compared with assessments of other like property in the taxing district.

The claim under section 441.37(1)(d), on which the appellants rest their second claim, allows a protest on the ground "[t]hat there is an error in the assessment." Section 441.37(1)(d) is not limited solely to clerical or mathematical errors. Although the Weirs assert incorrect dwelling and land dimensions, the revised property record card submitted shows the errors have been corrected by the assessor's office on the current property record card. However, we are unclear as to why these corrections did not result in corresponding revisions to the assessed values of the land and dwelling.

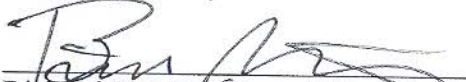
We, therefore, affirm the Weirs' property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$344,620, representing, \$168,300 in land value and \$176,320 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Palo Alto County Board of Review is affirmed.

Dated this 8 day of March 2010.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Chair


Richard Stradley, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-8</u> , 201 <u>0</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	